

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES MCCONNELL,

Defendant.

CR-15-38-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on July 20, 2015. (Doc. 14). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on July 16, 2015. (Doc. 13). McConnell admitted to having violated special condition 2 of his supervised release by consuming alcohol, but did not admit to violating the preamble to the standard conditions by committing a new crime. (Doc. 14). Probation Officer Wade Riden testified regarding both of McConnell's alleged violations. *Id.* Judge

Johnston found the evidence sufficient to establish that McConnell violated the conditions of his supervised release by consuming alcohol and committing a new crime. *Id.*

Judge Johnston recommends this Court revoke McConnell's supervised release and that the Court sentence McConnell to twelve (12) months imprisonment followed by sixty (60) months of supervised release. *Id.* Judge Johnston further recommends McConnell be placed at the FCI in Sheridan, Oregon, and upon his release from custody, that McConnell be placed at a residential re-entry center in Billings, Montana. *Id.* Judge Johnston also recommends that McConnell's terms of supervised release be updated to conform to Ninth Circuit law. *Id.*

McConnell's criminal history category is V, the current offense is a Grade C violation, and the underlying offense is a Class C felony. The statutory range is a maximum of 24 months. The applicable guideline imprisonment range is 7 to 13 months. The statutory and guideline term of supervised release is 60 months to life.

This Court finds no clear error in Judge Johnston's Findings and Recommendations. McConnell's current violations are reckless and dangerous in nature. A sentence of twelve (12) months imprisonment with a term of sixty (60) months supervised release to follow is sufficient, but not greater than necessary.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 42) is ADOPTED IN FULL. **IT IS FURTHER ORDERED** that Defendant James McConnell shall be sentenced to **twelve (12) months imprisonment** followed by **sixty (60) months of supervised release**. McConnell shall serve the first 180 days of his term of supervised release at a Residential Re-Entry Center in Billings, Montana.

DATED this 6th day of August, 2015.



Brian Morris
United States District Court Judge